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EXAMINER

HAWKINS, CHERYL N

ART UNIT

PAPER NUMBER

1734

7

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

mk-7

Office Action Summary

Application No.

09/913,408

Applicant(s)

MONTAGNER, SILVIO

Examiner

Cheryl N Hawkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/16/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 2 is objected to because of the following informalities: "is" in line 1 of the claim should be marked --has-- or --includes--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, the phrase "or similar panels" renders the claims indefinite because the claims include elements not actually disclosed (those encompassed by "or similar panels"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).
4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "the milled edge" in line 7 of the claim. There is insufficient antecedent basis for this limitation in the claim.
5. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as

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the invention. The term "suitable" in claim 1 is a relative term which renders the claim indefinite. The term "suitable" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear as to what are the limitations of a suitable sheet of polymer resin.

6. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, the phrase "or similar material" renders the claims indefinite because the claims include elements not actually disclosed (those encompassed by "or similar material"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

7. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to whether the whole perimetric edge of the panel is covered or just the corner as indicated by the phrase "corner-covering element". For the purposes of examination, it will be assumed that the whole perimetric edge refers to the corner portion of the panel only as shown in Figure 1.

8. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1, it is unclear as to whether the applicant is claiming a thermoforming

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step when referring to "a thermoformed coating". For the purpose of examination, it will be assumed that the applicant is claiming a thermoforming step.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-3, 5, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over

McClung et al. (US 5,085,027) in view of the admitted prior art and Kelly (US 5,310,435).

McClung et al. discloses a method for molding wooden panels with radiused bottom corners, the panels being coated with thermoformed polymer sheets, comprising the steps of removing some material from at least one side of a panel in correspondence with the bottom edge of the panel so as to remove the corner and create one or more grooves in which to fit an inserted element (Figures 3 and 4; column 3, lines 12-20); applying on this panel, on the top surface and on all the side surfaces of at least as far as the edge, a coating of a sheet of polymer resin (Figure 3; column 3, lines 9-12; column 2, lines 39-41); and inserting a corner-covering element in a cavity in the panel formed by the removal of material, this element being shaped to have a profile conjugate with the profile obtained by removal of the bottom edge of the panel (Figures 4 and 5; column 3, lines 21-34).

McClung et al. is silent as to the polymeric sheet being thermoformed. It is well known and conventional in the plastic article manufacturing art, as disclosed by the admitted prior art

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(page 1 of the specification, lines 1-16), to use a thermoforming process for conforming a plastic sheet to a shaped article. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the veneers of McClung et al. with a thermoforming process; thermoforming processes being well established in the art for applying plastic sheets to shaped articles.

McClung et al. does not disclose shaping the corner-covering element prior to its insertion into the cavity formed in the panel. Kelly discloses a method for making corners for laminate and veneer countertops in which the corner-covering element is shaped prior to its insertion in into the cavities formed in the panel (Figure 6). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of McClung et al. to shape the corner-covering element prior to its insertion in the cavity formed in the panel to enable separate manufacture of the corner-covering elements and the panels.

As to Claim 2, McClung et al. discloses a panel in which the corner-covering element has a radiused external profile so as not to be sharp (Figures 4 and 5; column 3, lines 21-34).

As to Claim 3, McClung et al. discloses a panel in which the corner-covering element is made of plastic (column 2, line 67 through column 3, line 3; column 2, lines 39-41).

As to Claim 5, McClung et al. discloses a panel in which the corner-covering element is made of wood (column 2, line 67 through column 3, line 3; column 2, lines 39-41).

As to Claim 8, McClung et al. discloses a panel in which the corner-covering element is present on the entire bottom edge of the panel (Figure 2).

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11. Claims 4 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClung et al. (US 5,085,027) as applied to claim 2 above, and further in view of Greenfield (US 5,475,953). McClung et al. is silent as to the corner-covering element being made of aluminum, ABS, or rubber. Greenfield discloses an edge molding strip which can be constructed of a heavy-duty plastic material, such as aluminum, ABS, or rubber (column 3, lines 47-49). It would have been obvious to one of ordinary skill in the art at the time of the invention to construct the corner-covering element of McClung et al. from any heavy-duty plastic material such as aluminum, ABS, or rubber to provide adequate protection of the edge as suggested by Greenfield.

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over McClung et al. (US 5,085,027) as applied to claim 1 above, and further in view of Ciancio et al. (US 6,063,475). McClung et al. discloses a panel in which the corner-covering element is present on the entire bottom edge of the panel (Figure 2). In any event, it is well known and conventional in the edge molding art, as disclosed by Ciancio et al. (Figure 4), to apply a corner-covering element such that it protects an extended portion of the panel. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the corner-covering element of McClung et al. to cover an extended portion of the panel as conventionally known in the art.

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Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl N. Hawkins whose telephone number is (703) 306-0941. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone numbers for the organization where the application or proceeding is assigned is (703) 872-9310 for regular communications or (703) 872-9311 for After-Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

Cheryl N. Hawkins

Cheryl N. Hawkins 11/17/02

November 17, 2002



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